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FOD 23
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U. S. DEPARTMENT OF AGRICULTURE

FOOD DISTRIBUTION ADMINISTRATION

UNITED STATES DEPARTMENT OF AGRICULTURE

[FDO 23]

PART 1465—FISH

RESTRICTIONS ON THE SALE OF SPECIFIED CANNED FISH

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and to insure an adequate supply and efficient distribution of canned fish of the 1942 pack to meet war and civilian needs, *It is hereby ordered,* As follows:

§ 1465.11 *1942 pack of canned fish, allocation and restrictions on sales*—(a) *Definitions.* When used in this order unless otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) "Canner" means any person, partnership, association, business trust, corporation or any organized group of persons, whether incorporated or not, engaged in the business of canning fish in hermetically sealed metal or glass containers and sterilizing the same by the use of heat.

(2) "Pack" means the total amount, by net weight, of all grades of fish enumerated in Groups 1 to 4 in paragraph (b) (1), packed by any canner from March 1, 1942 to February 28, 1943.

(3) "Government agency" means any officer, board, agency, commission, or government-owned or government-controlled corporation of the United States specifically designated by the Director.

(4) "Delivery to Government agencies" means the transfer of title of the canned fish to the Food Distribution Administration or any Government agency designated by the Director. Such delivery may be evidenced by execution of bill of lading or receipt acceptable to the Director or designated agency.

(5) "Director" means the Director of Food Distribution, United States Department of Agriculture or any employee of the United States Department of Agriculture designated by the Director.

(b) *Restrictions on canners.* (1) Notwithstanding any previous notice of release by any Government agency, no canner after February 19, 1943, may sell for delivery any part of his pack of the following fish packed by him at any time from March 1, 1942 to February 28, 1943, except as permitted by this order:

Group 1 Salmon: Red, sockeye, or blueback (Oncorhynchus nerka); Pink (Oncorhynchus gorbuscha); Silver, silverside, medium red, or coho (Oncorhynchus kisutch); Chum or keta (Oncorhynchus keta); King, chinook or spring (Oncorhynchus tschawytscha; Steelhead, or steelhead trout (Salmo irideus and S. Clarki, sometimes called S. Gairdneri).

Group 2 Pilchard: (Sardinia caerulea), by whatever name known, including sardines.

Group 3 Sea herring: Atlantic (Clupea harengus), by whatever name known, including sardines.

Group 4 Mackerel: Atlantic (Scomber scombrus); Pacific (Pneumatorphorus japonicus diego).

(2) Each canner may deliver, to any agency or agencies of the United States Government, specifically designated by the Director, any part or all of the canned fish listed in paragraph (b) (1), packed by him during the period specified in this order.

(3) 80% by net weight is hereby established as each canner's quota percentage for such sale to Government agencies of his pack of each species of Groups 2, 3, and 4, and 60% of his pack of each species of Group 1 of canned fish listed in paragraph (b) (1), packed during each quota period. The following quota periods are hereby established:

Period 1—March 1, 1942–January 31, 1943.
Period 2—February 1943.

(4) The Food Distribution Administration within the Department of Agriculture is hereby allocated the quantities prescribed by this order, and authorized to purchase, for governmental requirements, those quantities and such other and further quantities as may be allocated to it from time to time. Said Food Distribution Administration is also authorized to inspect and grade such canned fish pursuant to paragraph (d) of this order.

(5) Any canner who has delivered to Government agencies his quota of his pack of any species of any Group of canned fish listed in paragraph (b) (1), packed during any quota period may deliver to persons other than Government agencies 20% of his pack of each species of Groups 2, 3, and 4, and 40% of his pack of each species of Group 1, packed during such quota period. The quantities permitted by this order to be delivered to other than Government agencies may be delivered by a canner in advance of delivery of his quota to Government agencies if so authorized by the Director: *Provided,* That the Director finds the canner is unable to deliver his quota for reasons beyond his control: *And provided further,* That he has obliged himself by contract to make deliveries of his quota when able: *Provided further,* That specific releases for delivery to other than Government agencies in excess of the percentages specified in this paragraph of any canner's pack of any species of any group listed in paragraph (b) (1), granted prior to February 19, 1943, by the Agricultural Marketing Administration, or the Food Distribution Administration, of the United States Department of Agriculture, or the Director General for Operations of the War Production Board and which subsequent to February 19, 1943, may be granted by the director, shall not be construed as being in violation of this order.

(6) Each canner shall mail to or file with the Food Distribution Administration, weekly within three days after the close of each calendar week on Form PD–495, "Canned Fish; Weekly Pack Report." A report on such form, shall be filed within fifteen days after the completion of each canner's seasonal pack, covering the entire amount of such pack.

(7) The Director may issue specifications at any time as to processing, packing, containers, container treatment, can marking, labeling, boxing, and strapping, or he may authorize any Government agency to issue such specifications.

(c) *Certificates relating to the cans covered by this order*—(1) *Certificates.* Each canner who purchases any cans to pack fish for Government use pursuant to this Order—whether such purchase is by contract or on open account order—shall furnish, to the can manufacturer from whom he buys, a certificate, signed by an authorized official, in substantially the form attached hereto as "Exhibit A", which shall constitute certification to the Food Distribution Administration that such canner is familiar with the terms of this order (in its present form or as it may be amended from time to time) and that during the life of this order, he will not use any cans purchased from such can manufacturer in violation of its terms. Only one such certificate covering all present and future purchases from a given can manufacturer need be furnished by a canner to that can manufacturer but no can manufacturer shall be entitled to rely on any such certificate if he knows, or has reason to believe it to be false.

(d) *Inspection and grading.* Any canned fish required to be set aside under this order shall be subject to inspection and grading at any time by the Director or by any person or any Government

agency specifically authorized by the Director

(e) *Records and reports.* All persons affected by this order shall keep and preserve for not less than two years, accurate and complete records concerning inventories, purchases, production and sales, and shall maintain such other records for such other periods of time, and shall execute and file such reports upon such forms and submit such information, as the Director may from time to time request or direct, and within such times as he may prescribe.

(f) *Audits and inspections.* Every person subject to this order shall, upon request, permit inspections, at all reasonable times, of his stocks of canned fish and premises used in his business, and all of his books, records and accounts shall upon request be submitted to audit and inspection, by the Director.

(g) *Petition for relief from hardship.* Any person affected by this order who considers that compliance herewith would work an exceptional and unreasonable hardship on him may petition in writing (in triplicate) for relief to the Director, setting forth all pertinent facts and the nature of the relief sought. The Director may thereupon take such action as he deems appropriate and such action shall be final.

(h) *Violations.* Any person who wilfully violates any provision of this order or who by any act or omission falsifies records to be kept or information to be furnished pursuant to this order or wilfully conceals a material fact concerning a matter within the jurisdiction of any Department or agency of the United States may be prohibited from receiving or making further deliveries of any material subject to allocation and such further action may be taken against him as the Director deems appropriate, including recommendations for prosecution under section 35a of the Criminal Code (18 U.S.C. 1940 ed. 80), under paragraph 5 of section 301 of Title III of the Second War Powers Act, and under any and all other applicable laws.

(i) *Communications to Department of Agriculture.* All reports required to be filed hereunder and all communications concerning this order shall, unless otherwise directed, be addressed to: Director of Food Distribution; United States Department of Agriculture; Washington, D. C. Ref: FD-23.

(j) *Effective date of and termination.* This order shall take effect on the date of issuance thereof, and, shall continue in effect until revoked.

(E.O. 9280, 7 F.R. 10179)

Issued this 19th day of February 1943.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

EXHIBIT A—CANNER'S CERTIFICATE [1]

Certificate required by paragraph (c) (1) of Food Distribution Order 23. One copy of this certificate is to be delivered to each can manufacturer from whom the canner purchases cans and is to cover all purchases present and future, so long as such order, in its present form or as it may be amended from time to time, remains in effect.

(Applicant's Name)

(Applicant's Address) (Date)

In accordance with paragraph (c) (1) of Food Distribution Order 23, to conserve the supply and direct the distribution of certain canned foods, the undersigned hereby certifies—and this shall constitute a certification to the Food Distribution Administration, United States Department of Agriculture—that the undersigned applicant is familiar with the terms of said Food Distribution Order 23, and any and all amendments thereto, and that said applicant will not use any cans purchased from

---
(Name of Can Manufacturer)

(Address of Can Manufacturer)

in violation of the terms of said Order and amendments.

(Legal Name of Applicant)

By ---

(Title of Official Reporting)

Section 35A of the U. S. Criminal Code (18 U. S. C. 80) makes it a criminal offense to make a false statement or representation to any department or agency of the United States as to any matter within its jurisdiction.

[F. R. Doc. 43-2767; Filed, February 19, 1943; 12:38 p. m.]

[1] Secretary of Agriculture.

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U. S. DEPARTMENT OF AGRICULTURE

FOOD DISTRIBUTION ADMINISTRATION

UNITED STATES DEPARTMENT OF AGRICULTURE

[Food Distribution Order 23, Amendment 1]

PART 1465—FISH

SALE OF SPECIFIED CANNED FISH

Pursuant to the authority vested in me by Executive Order No. 9280, dated December 5, 1942, and to assure an adequate supply and efficient distribution of canned fish to meet war and essential civilian needs, Food Distribution Order No. 23 (8 F.R. 2250) issued by the Secretary of Agriculture of the United States on February 19, 1943, is hereby amended as follows:

1. By deleting the words and figures "February 28, 1943", wherever the same appear in §§ 1465.11 (a) (2) and 1465.11 (b) (1) of said Food Distribution Order No. 23, and by inserting, in lieu thereof, the words and figures "March 31, 1943."

2. By deleting the last sentence in § 1465.11 (b) (3) of said Food Distribution Order No. 23 and by inserting, in lieu thereof, the following:

The following quota periods are hereby established: Period No. 1 is from March 1, 1942, to February 28, 1943; and Period No. 2 is the month of March 1943.

The provisions of this amendment shall take effect on the date of issuance hereof.

(E.O. 9280, 7 F.R. 10179)

Issued this 27th day of February 1943.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

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DEPARTMENT OF AGRICULTURE

WAR FOOD ADMINISTRATION

A

[FDO 23, as Amended, Revocation]

PART 1465—FISH

RESTRICTIONS ON THE SALE OF SPECIFIED CANNED FISH

Food Distribution Order No. 23 (8 F. R. 2250, 2529), issued by the Secretary of Agriculture on February 19, 1943, as amended, is revoked as of 12:01 a. m., e. w. t., April 10, 1944.

With respect to violations, rights accrued, liabilities incurred, or appeals taken under Food Distribution Order No. 23, as amended, prior to the effective date of this revocation, all provisions of said Food Distribution Order No. 23, as amended, in effect prior to this revocation, shall be deemed to be in full force and effect for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violation, right, or liability.

(E.O. 9280, 7 F.R. 10179; E.O. 9322, 8 F.R. 3807; E.O. 9334, 8 F.R. 5423; E.O. 9392, 8 F.R. 14783)

Issued this 8th day of April 1944.

ASHLEY SELLERS,
Assistant War Food Administrator.

War Food Administration,
Summary to FDO as amended
Revocation.

Food Distribution Order 23, which extended restrictive measures on canned fish previously affected by War Production Board Order M-86-B until March 31, 1943, has been revoked as of April 10, 1944 by the War Food Administration.

The pack of canned fish has been restricted since April 1, 1943 by FDO 44 and amendments.

FDO 23 as amended required each canner to set aside for government agencies 80 percent of his pack of pilchard, herring, mackerel and sardines and 60 percent of his pack of each specie of salmon including chum and steelhead. FDO 44, amendment 2, requires each packer to set aside 60 percent of his pack of each specie of salmon, as defined therein, and 45 percent of his pack of pilchards, herring and mackerel.

Although FDO 23 has been revoked, violations, rights accrued, liabilities incurred or appeals prior to revocation are still subject to provisions in the order.

WAR FOOD ADMINISTRATION

FDO 23

Effective April 10, 1944

Canned Fish

Revoked April 16, 1944

Distribution Order No. 23 as amended by War Food Administration Order M-55-B until April 10, 1944 by the War Food Administration.

The pack of canned fish has been restricted since April 1, 1942 by FDO 44 and amendments.

FDO 23 as amended required each canner to set aside for government service 60 percent of his pack of pilchard, herring, mackerel and sardines and 60 percent of his pack of each species of salmon including chum and steelhead. FDO 23 as amended by orders issued since April 1, 1942 set aside 60 percent of the canner's pack of each species of salmon as defined in FDO 23 and 45 percent of his pack of pilchard, herring and mackerel.

Although FDO 23 has been revoked, violations occurred or appeals prior to revocation will be still subject to provisions in the order.